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Groom Creek Water Users Association

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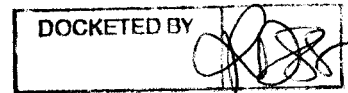
CC&N COMMISSION  
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Docket Control  
Arizona Corporation Commission  
1200 W. Washington St.  
Phoenix, Arizona 85007



Subject: Objections To Staff Report Dated April 18, 2011, as supplemented  
May 2, 2011 Regarding the Groom Creek Water Users  
Application for a CC&N Extension,  
Docket No. W-01865A-11-0057

Groom Creek Water Users ("GCWUA") appreciates the efforts of Commission Staff in reviewing the pending application and extends special thanks to the mapping division for its assistance in developing a legal description and map of the area involved in this application. GCWUA supports most of the Staff Report and recommendations. However, as explained below, GCWUA does object to the Staff's recommendation that the Commission initially issue an Order Preliminary instead of a certificate of convenience and necessity and needs clarification of the nature and purpose of the BMPs Staff is now recommending.

**An Order Preliminary is Inappropriate; GCWUA has served the extension area since 1982.**

In 1982, GCWUA acquired an existing CC&N and system pursuant to Commission Decision No. 53067. Other than in-fill, GCWUA has never expanded the territory it serves and still is not seeking to do so. However, we recently learned that approximately a quarter of the area served by the system we acquired in 1982 lies outside of the certificated area as reflected in the Commission's records (29.12 acres of the 122.63 acres we serve are outside the CC&N). Almost all of this area is composed of two subdivisions platted as Groom Creek Estates 1 & 2 in 1967 and 1970 respectively - **12 years before we acquired the system.**

This discrepancy was not discovered when the CC&N was transferred to GCWUA in 1982. Nor was it discovered during rate proceedings conducted in 1984 (Decision No. 54277), in 2000 (Decision No. 62619) and in 2008 (Decision No. 70627). We discovered the potential of a discrepancy when the engineers hired to design upgrades to our existing system inquired as to the location of our CC&N boundaries. Following discussions with Staff about the apparent discrepancy, GCWUA filed the pending application for the sole purpose of correcting the inconsistency between the area it actually serves and the area for which it holds a CC&N.. The filing was made even though such filing is likely unnecessary under A.R.S. §40-282(B) (making

Commission authorization unnecessary to extend service in some instances).

Despite the foregoing history, Staff is recommending that the Commission only issue an Order Preliminary, rather than a CC&N, until GCWUA files all the Approvals of Construction required by Decision No. 70627. Staff also recommends that, within 60 days of GCWUA filing the required Approvals of Construction, Staff be required to file a response in the form of a Proposed Order "confirming compliance and granting an extension of the Company's CC&N to correct its existing CC&N boundaries to serve its customer base." The Commission would then have to consider and adopt the proposed order in order for GCWUA's CC&N boundaries to be corrected. Such a two-step process is unnecessary and wasteful of both GCWUA's and Staff's limited resources.

GCWUA acknowledges its existing obligation to file Approvals of Construction pursuant to Decision No. 70627 and GCWUA will do so once the on-going system improvements are complete and the Approvals are available to file. The Staff Report identifies the on-going efforts of GCWUA to complete the construction and recommends providing GCWUA until October 31, 2011 to file the foregoing Approvals. GCWUA appreciates Staff's support for the extension of time it has requested. However, the lack of Approvals of Construction today is no reason to delay granting both GCWUA and its customers the rights and obligations associated with a CC&N. Certainly it does not justify requiring two decisions of the Commission to conform the CC&N boundary to the area GCWUA and its predecessor have served for approximately 40 years.

#### **GCWUA Requests Clarification of the Purpose and Meaning of the BMPs.**

GCWUA is not opposed to taking reasonable cost-effective measures to further conservation. We regularly include conservation tips in our communications with our customers. However, we are not located in an Active Management Area. We are unfamiliar with things like the Arizona Department of Water Resource's Modified Non Per Capita Conservation Program and are uncertain whether Local or Regional advertising campaigns exist in which to participate as envisioned by BMP 1.1. Will our communications in our newsletters satisfy BMP 1.1?

We also do not know the level of training or assistance that is expected under BMP 3.6. We do not employ full time field personnel and do not have leak detecting equipment. While we are willing to investigate and provide assistance to our large water using customers, we are not intending to burden the remaining customers with excessive costs to benefit a handful of large water using customers. Will sending our existing personnel to investigate leaks and advise customers satisfy BMP 3.6?

Finally, the 60 day compliance period contained in BMP 5.2 seems unnecessary and may even be counter-productive to the goal of furthering conservation. It is our understanding that Commission rule AAC R14-2-410(B)(1)(b)&(c) already authorizes water companies to terminate service without any notice if we have evidence of meter tampering, fraud or unauthorized resale or use of utility service. We further understand that Arizona Revised Statute Section 40-491 through -495 already authorize us to pursue recovery of damages,

attorney's fees and other expenses if anyone, including a customer, tampers with our equipment. We therefore ask Staff to explain how providing a 60 day grace period to a customer that is meter tampering or making unauthorized use of our utility service before disconnecting them or pursuing such an action furthers the goal of conservation.

### **Conclusion**

Again we extend our appreciation to Staff and their efforts in processing this matter. Our objection is not filed to avoid the filing of Approvals of Construction. That requirement exists regardless whether an Order Preliminary or CC&N is issued by the Commission. Nor do we oppose undertaking some reasonable cost-effective conservation measures consistent with our location outside of an active management area, our size, our limited resources and the nature of our service area.

We do, however, object to the insertion of any unnecessary, inappropriate, wasteful or ambiguous conditions within a Commission Decision correcting an oversight made over 30 years ago and intended merely to ensure that the CC&N granted by the Commission and reflected on its records encompasses the same system and service territory we actually acquired in 1982.

Sincerely,



Kal Miller

Secretary GCWUA

Cc: J. M. Hodgson

M.L. Good

W. P. Sullivan